

ORIGINAL



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MEMORANDUM

TO: Docket Control

FROM: Steven M. Olea  
Director  
Utilities Division

*EA for SMD*

Date: October 19, 2009

RE: STAFF REPORT FOR THE APPLICATION OF GRAHAM COUNTY ELECTRIC COOPERATIVE, INC. TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY AND TO TRANSFER CERTAIN OF ITS ASSETS TO THE CITY OF SAFFORD. (DOCKET NO. E-01749A-09-0185)

Attached is the Staff Report for the application of Graham County Electric Cooperative, Inc. for the Arizona Corporation Commission authority to transfer certain of its assets to the City of Safford and to amend its Certificate of Convenience & Necessity in relation thereto. Staff recommends approval.

SMO:All:red

Originator: Alexander Ibhide Igwe, CPA

Attachment: Original and 13 Copies

Arizona Corporation Commission  
**DOCKETED**  
OCT 19 2009

DOCKETED BY	<i>[Signature]</i>
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Docket No. E-01749A-09-0185

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STAFF REPORT  
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ARIZONA CORPORATION COMMISSION

GRAHAM COUNTY ELECTRIC COOPERATIVE, INC.  
DOCKET NO. E-01749A-09-0185

APPLICATION FOR COMMISSION AUTHORITY TO AMEND ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY AND TO TRANSFER CERTAIN OF ITS ASSETS TO  
THE CITY OF SAFFORD.


OCTOBER 19, 2009

## STAFF ACKNOWLEDGMENT

The Staff Report for Graham County Electric Cooperative, Inc., Docket No E-01749-09-0185, was prepared by the Staff members shown below. Alexander Ibhade Igwe was responsible for reviewing the application and performing pertinent financial analysis; Prem Bahl analyzed the engineering issues; and Carmen Madrid researched the Consumer Service issues in this proceeding.



Alexander Ibhade Igwe, CPA  
Executive Consultant III



Prem Bahl, P. E.  
Utilities Engineer



Carmen Madrid  
Public Utilities Consumer Analyst II

**EXECUTIVE SUMMARY**  
**GRAHAM COUNTY ELECTRIC COOPERATIVE, INC.**  
**DOCKET NO. E-01749A-09-0185**

On April 17, 2009, Graham County Electric Cooperative, Inc. ("Graham" or "Cooperative") filed an application with the Arizona Corporation Commission ("Commission") for authorization to amend its Certificate of Convenience and Necessity ("CC&N") and to transfer certain of its assets to the City of Safford ("Safford" or "City").

Graham is a non-profit electric distribution cooperative, certificated by the Commission in Decision No. 33006, dated April 6, 1961, to operate and maintain an electrical system in most areas of Graham County. The Cooperative serves areas located south and east of the San Carlos Apache Indian Reservation, but excludes areas within the corporate boundaries of the City and the Town of Thatcher. Graham currently serves approximately 6,200 members through rates and charges that were approved by the Commission in Decision No. 70289, dated April 24, 2008.

The City of Safford ("Safford" or "City") is a municipal corporation that operates electric distribution systems within and outside its corporate boundaries.

Graham states that prior to 1946, the Arizona General Utilities Company ("AGU") was the sole provider of electric service within Graham County. In 1946, Graham, Safford and the Town of Thatcher ("Thatcher") jointly acquired the assets of AGU. On January 22, 1946, Graham, Safford and Thatcher entered into a joint contract ("the 1946 Agreement") whereby Safford and Thatcher acquired the assets within their respective boundaries while Graham purchased the remaining assets.

Graham claims that the City has exercised an Acquisition Clause in the 1946 Agreement, in annexing portions of its CC&N. Further, the Cooperative states that ambiguity surrounding interpretations of the 1946 Agreement has over the years resulted in many litigations. Graham and the City have pending counter lawsuit at Graham County Superior Court. As a result of the pending litigation, the Graham County Superior Court issued a preliminary injunction in 2005, restraining both parties from providing electric service to the Wal-Mart Supercenter.

On January 1, 2009, Graham and the City entered into a Territorial Settlement Agreement ("TSA"), in an attempt to fully resolve all issues surrounding service rights and obligations with the common service area. The TSA delineated a geographic area, known as the Safford Service Area ("SSA"), which with certain exceptions, is the area Safford has the right to serve under the terms of TSA. The TSA also authorizes Graham to continue to serve its existing customers within the redefined SSA, from January 1, 2009 through December 31, 2016. Further, the TSA permits Graham to sign-on new customers during the intervening period, only when the City does not have the facilities to serve the new customer, at the time of requesting service. Further, the TSA requires Graham to file a new application, no later than January 15, 2015, for Commission authority to transfer to the City, its customers and facilities within the SSA, effective January 1, 2016. In addition, the TSA provides for Graham to serve the Walmart Property and load ("Walmart") through December 31, 2012. Effective January 1, 2013, the

Cooperative is required to transfer the Walmart as well as the facilities for serving the load to Safford. In exchange, Graham would assume the right and responsibility for serving the Safford Municipal Airport. Also, the City will swap its distribution facilities for serving the Airport to Graham, in a quid pro quo transaction.

In this application, Graham seeks Commission authorization to:

1. Modify its CCN to exclude the SSA, subject to the exception sought in (2) below.
2. Retain the areas where it currently has customers and facilities within the SSA in its CC&N, through December 31, 2015.
3. Modify its CC&N to include Walmart, through December 31, 2012.
4. Modify its CC&N to exclude the Walmart, and transfer its distribution facilities for serving Walmart to Safford, effective January 1, 2013, with no further action of the Commission.

Staff has reviewed Graham's application and determined that the above transactions are in the public interest. Staff agrees with the Cooperative that the benefits of approving this application, far exceeds the demerits of a denial. First, it eliminates all disputed issues relating to the 1946 Agreement, and resolves pending litigations. Second, it eliminates the risk of the City obtaining Graham's customers and facilities within the SSA, by means of an Acquisition Clause in the 1946 Agreement; which the Cooperative considers to be unfavorable. Third, the TSA provides Graham with the opportunity to continue to serve its existing customers, and some opportunity to obtain new customers. As a result of this provision, the Cooperative's customers will not be immediately impacted by this transaction, but would have a lengthy transition period. Finally, it resolves all territorial disputes, and provides for an agreed-upon process for service territory expansion by both parties. Based on these factors, Staff recommends approval of this application.

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## BACKGROUND

On April 17, 2009, Graham County Electric Cooperative, Inc. ("Graham" or "Cooperative") filed an application with the Arizona Corporation Commission ("Commission") for authorization to amend its Certificate of Convenience and Necessity ("CC&N"), and to transfer certain of its assets to the City of Safford ("Safford" or "City").

Graham is a non-profit, electric distribution cooperative certificated by the Commission in Decision No. 33006, dated April 6, 1961, to operate and maintain an electrical system in most areas of Graham County. The Cooperative serves areas located south and east of the San Carlos Apache Indian Reservation, but excludes areas within the corporate boundaries of the City and the Town of Thatcher. Graham currently serves approximately 6,200 members through rates and charges that were approved by the Commission in Decision No. 70289, dated April 24, 2008.

The City of Safford ("Safford" or "City") is a municipal corporation that operates electric distribution systems within and outside its corporate boundaries.

Graham states that prior to 1946, the Arizona General Utilities Company ("AGU") was the sole provider of electric service within Graham County. In 1946, Graham, Safford and the Town of Thatcher ("Thatcher") jointly acquired the assets of AGU. On January 22, 1946, Graham, Safford and Thatcher entered into a joint contract ("the 1946 Agreement") whereby Safford and Thatcher acquired the assets within their respective boundaries while Graham acquired the remaining assets. The 1946 agreement had an "Acquisition Clause", which states as follow:

*"Safford and Thatcher, or either, upon the annexation or extension of their corporate limits, at any time in the future, of territory adjacent to either of the said towns, shall be sold the distribution facilities then existing in any such territory and owned by the Co-op upon a replacement new cost less depreciation basis, with no goodwill or going concern element considered, and in no event shall the Co-op require that condemnation proceedings be instituted for such acquisition."*

Graham reports that since 1961, Safford has exercised the above Acquisition Clause in annexing several part of its certificated territory. Further, Graham states that because the 1946 Agreement was somewhat ambiguous, there have been on-going disputes between Safford and the Cooperative, regarding (1) rights, obligations and duties under the 1946 Agreement and Arizona laws, (2) provision of service to areas annexed by Safford, and (3) the correct interpretation and application of the Acquisition Clause. These disagreements have resulted in two litigations, ultimately decided by the Arizona Supreme Court. Graham cites the two cases as *Graham County Elec. Coop. v Town of Safford*, 84 Ariz, 15,322 P.2d 1078 (1958) ("Graham I") and *Graham County Elec. Coop. v Town of Safford*, 95 Ariz, 174, 388 P.2d 169 (1963) ("Graham II"). As of date, Graham and Safford have pending counter lawsuits, regarding which entity has the right to serve certain portions and customer loads within Safford. According to Graham,



these counter lawsuits have been consolidated into a single case, titled *City of Safford (Plaintiff/defendant) v. Graham County Cooperative Electric (Plaintiff/defendant)*, in Graham County Superior Court Case Nos. CV2005-081 and CV2005-083 ("the Litigation"). As a result of the pending Litigation, the Graham County Superior Court issued a preliminary injunction in 2005, restraining both parties from providing electric service to the Wal-Mart Supercenter.

## **TERRITORIAL SETTLEMENT AGREEMENT**

On January 1, 2009, Graham and Safford entered into a comprehensive Territorial Settlement Agreement ("TSA"), in an attempt to fully resolve all disputed issues relating to the 1946 Agreement and the pending Litigations. The purpose of the TSA is to provide:

*"...for a more orderly, mutually beneficial and rational allocation of electric service responsibilities within the corporate limits of Safford as they have expanded and as they will continue to expand from time to time in the future...."*

By the TSA, the parties have delineated a geographic area, known as the Safford Service Area ("SSA"), which with certain exceptions, is the area Safford has the right to serve under the terms of agreement. The SSA encompasses the city limits, including areas in which Safford currently provides service, and certain areas in which it anticipates providing service in no distant future. The TSA requires Graham to seek Commission approval to modify portions of its CC&N overlapping the SSA, and to transfer certain of its assets to the City. However, the TSA authorizes Safford to continue to serve certain customers loads within the Safford Service area as follow:

*"The Cooperative's CC&N will continue to include, and GCEC will have the right and obligation to serve, all of the existing loads and customers within the Safford Service Area that the Cooperative was serving as of January 1, 2009. These areas depicted on Exhibit 2 hereto, which shows the location of the Cooperative's distribution facilities (identified thereon in red as "GCEC Conductors") existing as of January 1, 2009 within the Safford Service Area that are used to serve existing loads and customers. To provide further clarity, a detailed list of the existing loads and customers covered by this exception is attached thereto as Exhibit 3."*

As indicated above, the TSA provides for Graham to continue to serve its existing customers of record, as of January 1, 2009, within the redefined SSA, through December 31, 2015. The Cooperative currently serves approximately 682 customers within the TSA. On January 1, 2016, Graham is required by the TSA to transfer to Safford, all its customers and electric infrastructure within the SSA. To effectuate this provision, the TSA requires Graham to file a new application with the Commission, no later than January 15, 2015. The prospective application will request the Commission to delete any portion of its CC&N overlapping the SSA, and for authorization to transfer all its assets within the SSA to Safford, effective January 1,

2016. Upon approval of the January 15, 2015 filing, Safford will become the sole provider of electric service within the SSA.

Between January 1, 2009 and December 31, 2015, the TSA authorizes Graham to continue to sign-on two classes of prospective customers within the SSA. First, the TSA allows Graham to serve new or temporary loads that Safford does not have the necessary infrastructure to connect at the time service is requested. Second, Graham may provide service to new customers that request electric service directly from the Cooperative, prior to Commission approval of this application.

As it relates to the Walmart Supercenter load ("Walmart"), the TSA provides as follow:

*"Through December 31, 2012, the Cooperative's CC&N will include, and the Cooperative will have the right and obligation to continue to serve, the Wal-Mart SuperCenter load, which is located within the Safford Service Area on a parcel of land in Safford bordered by 20<sup>th</sup> Avenue on the west and 17<sup>th</sup> avenue on the east, and by highway 70 on the north and 8<sup>th</sup> Street on the south, and which is more particularly described in Exhibit 4 hereto. The TSA provides that, subject to commission approval, Safford will then take over service to the Wal-Mart load on January 1, 2013, and GCEC will at that time convey to Safford its distribution facilities used in providing electric service to the Wal-Mart load."*

Under the terms of the TSA, Graham is permitted to serve Walmart through December 31, 2012. On January 1, 2013, Graham will transfer Walmart and its infrastructure related thereto, to Safford. Concurrent with this transfer, Graham would assume responsibility for serving the Safford Municipal Airport properties ("Airport") from Safford, and acquire the City's infrastructure for serving the Airport, in a *quid pro quo* transaction. Because the Airport is currently within the Cooperative's CC&N, Graham contends that it would not require Commission prior authorization to serve the load.

## THE TRANSACTION

The Cooperative seeks Commission authorization to:

1. Subject to the terms of the TSA as described in (2) below, delete the portion of Graham's CC&N within the redefined SSA.
2. Modify the Cooperative's CC&N to include areas and customers within the SSA, as described in Section 13(a) of this application.
3. As it relates to Walmart, the Cooperative seeks Commission authority to:
  - a. Modify its CC&N to include Walmart, from the effective date of the Commission decision through December 31, 2012,

- b. Delete Walmart from its CC&N, and transfer to Safford its electric infrastructure dedicated to serving Walmart, effective January 1, 2013.

## **STAFF ANALYSIS**

### **Engineering Analysis**

On July 14, 2009, Staff Engineer, Prem Bahl inspected the proposed SSA, accompanied by Dennis Kouts, the Cooperative's Operations Specialist. During this visit, Staff observed both Walmart and the Airport that would be swapped between Graham and Safford, on January 1, 2013. Staff also observed the distribution facilities that would be transferred by Graham to Safford, on January 1, 2016<sup>1</sup>. A listing of Graham's current customers that would be transferred to Safford, showing their respective locations, classes and meter numbers is attached to this application as Exhibit 3. The inventory of facilities relative to these customers will be assessed and determined prior to the transfer of the remaining facilities on January 1, 2016. According to the Cooperative, it is in Graham's best interest to finalize this agreement to preserve the wheeling revenue from Safford and to save on expensive litigation fees.

Based on a field inspection of Graham's electric facilities relative to the transfer of Walmart connection in 2013 and a general review of the distribution system in the Safford Area for transfer in 2016, including discussions with the Cooperative's representatives, Staff concludes that the transfer of assets in the SSA is reasonable under the terms of the TSA, and is in the public interest. Staff does not believe that a detrimental impact to service reliability will occur as a result of the transfer. That is because the Cooperative will reconfigure the system by disconnecting its feed into the current load center and let Safford connect the affected customers to its present distribution system. Based on Staff's aforementioned engineering review and inspection of the electric facilities to be transferred by Graham to Safford, Staff recommends that the Cooperative's application to amend its CC&N and transfer certain facilities to Safford per the TSA be approved. Detail Engineering Analysis is attached as exhibit A.

### **Analysis of the Transaction**

#### *Existing and Prospective Customers within the SSA*

Graham is requesting the Commission authority to delete the redefined SSA from its CC&N, except for portions of the SSA where it currently serves approximately 682 customers. The TSA authorizes Graham to continue to serve these customers through December 31, 2015. Also, the TSA authorizes Graham to sign-on new customers during the intervening period, only when Safford does not have the facilities to serve such a prospective customer. Graham states that such prospective customers will be served through a Borderline Agreement between the Cooperative and the City, subject to Commission approval. The TSA requires Graham to file a

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<sup>1</sup> In accordance with the terms of the TSA, the distribution system, shown in red on Exhibit PB-1, and the customers being presently served by Graham will continue to be served by the Cooperative until December 31, 2015. These customers and the said distribution system facilities will be transferred to Safford on January 1, 2016.

new application, no later than January 15, 2015, for Commission authority to transfer all its customers and electric infrastructure within the SSA to Safford, effective January 1, 2016.

Staff's analysis indicates that the Company's proposal will result in fragmentation of Graham's CC&N within the SSA. As shown on the Cooperative's Exhibit 2 attached herewith, its customers are located in different portions of the SSA. Because Graham's customers are not located in a contiguous area, its subsisting CC&N will be scattered all over the SSA, if the Commission grants this request. Staff finds that fragmentation of Graham's CC&N within the SSA could result in customer confusion. However, Staff notes that perceived customer confusion is limited to the intervening period, from the effective date of a decision in this proceeding through December 31, 2015. In response to this concern, the Cooperative asserts that because its existing customers are known and the prospect of obtaining new customers is limited to the terms of the TSA, any customer confusion will be minimal. As shown on Exhibit 3, attached to this application, the Cooperative has provided a list of its current customers within the SSA, and agrees to provide an updated list by hearing date.

Staff agrees with the Cooperative that the benefits of approving this application, far exceeds the demerits of a denial. First, it eliminates all disputed issues relating to the 1946 Agreement, and resolves pending litigations. Second, it eliminates the risk of the City obtaining Graham's customers and facilities that are within the SSA, by means of an Acquisition Clause provided for in the 1946 Agreement; which the Cooperative considers to be unfavorable. Third, the TSA provides Graham with the opportunity to continue to serve its existing customers, and some opportunity to obtain new customers, through December 31, 2015. As a result of this provision, the Cooperative's customers will not be immediately impacted by this transaction, but would have a lengthy transition period. Finally, it resolves all territorial disputes, and provides for an agreed-upon process for service territory expansion by both parties. Based on these factors, Staff concludes that it is in the public interest to approve Graham's request to modify its CC&N within the SSA, as discussed above.

Staff did not find it necessary to analyze the Company's proposal to transfer its assets within the SSA to Safford, effective January 1, 2016. Staff believes that such analysis is best performed within the scope of its proposed January 15, 2015 filing. At that time, the Cooperative will be more able to identify such assets, the related sales price and net book value, and possible gains or losses relating thereto.

#### *Walmart Property and Load*

The Cooperative seeks Commission authority to include Walmart in its CC&N, from the effective date of a decision in this proceeding through December 31, 2012. According to the terms of agreement, on January 1, 2013, Graham will transfer Walmart, along with its related facilities to Safford. In return, Safford will transfer the Airport and the City's infrastructure for serving the Airport to Graham, in a quid pro quo transaction. In other words, this transaction will be effected through a swap, with no gain or loss to both parties. Finally, the Cooperative is requesting that the Commission to delete Walmart from its CC&N, effective January 1, 2013.

Staff finds that the TSA relating to this transaction is in the public interest. First, this agreement eliminates the legal dispute between Graham and the City regarding each party's right to serve the Walmart. Second, it guarantees a significant stream of revenue to the Cooperative through December 31, 2012. Third, it provides the Cooperative with the ability to earn continuous stream of income, once it assumes responsibility for serving the Airport. Staff agrees with Graham's assertion that because the Airport is currently located within its CC&N, it would not require Commission approval to commence serving it, effective January 1, 2013. Unlike the individual customers discussed above, Walmart is a distinct entity with a sizeable load. As a result, its addition and deletion from Graham's CC&N will be seamless. Based on these factors, Staff concludes that the Cooperative's proposal regarding Walmart is in the public interest.

## **PUBLIC NOTICE**

On September 23, 2009, Graham published a notice of this application in the *Eastern Arizona Courier*, a newspaper of general circulation within and around its service territory. The related *Affidavit of Publication* was filed with Docket Control on October 2, 2009. Also, on October 2, 2009, the Cooperative provided an *Affidavit of Mailing* indicating that the same notice was mailed to all customers of record as well as 20 property owners holding 40-acres or larger parcels of undeveloped land, within the SSA.

## **CONSUMER SERVICE ISSUES**

Staff's inquiry confirmed that Graham was in good standing with the Corporation Division of the Commission.

Our search of Consumer Services database from 2006 through October 6, 2009, indicates that the Cooperative had 13 complaints and 4 inquiries. The complaints and inquiries relate primarily to billing, rate case and service issues. The complaints have been fully resolved and closed.

## **CONCLUSION AND RECOMMENDATIONS**

Staff finds that Graham's application to modify its CC&N to be consistent with the terms of the TSA, and in the public interest.

Staff recommends Commission approval of Graham's application to modify its CC&N to exclude the SSA, subject to the exception provided for by the TSA.

Staff further recommends that the Commission grant Graham's request to modify its CC&N to include all areas within the SSA, where it currently provides electric service, as depicted by the red lines shown on the Cooperative's Exhibit 2, attached herewith.

Staff further recommends that the Commission approve Graham's application to include Walmart in its CC&N, from the effective date of the decision in this proceeding through December 31, 2012.


Staff further recommends that the Commission grant Graham's request for deletion of Walmart from its CC&N, effective January 1, 2013.

Staff further recommends approval of Graham's request for Commission authority to transfer to Safford, Walmart, as well as its electric infrastructure for serving Walmart, effective January 1, 2013. Staff recommends that this approval become effective on January 1, 2013, with no further action of the Commission.

Staff further recommends authorizing Graham to engage in any transactions and to execute or cause to be executed any documents so as to effectuate the authorizations requested with the application. Staff recommends that Graham files all pertinent documents evidencing the consummation of this transaction, no longer than 30 days from the effective date of transaction.

MEMORANDUM

To: Alex Igwe  
Executive Consultant  
Utilities Division

From: Prem Bahl   
Electric Utilities Engineer  
Utilities Division

Date: October 19, 2009

Subject: Graham County Electric Cooperative, Inc. to Amend its Certificate of Convenience and Necessity and to Transfer Certain of its Assets to the City of Safford  
Docket No. E-01345A-08-0426

On April 17, 2009, Graham County Electric Cooperative ("Graham," "GCEC" or "Cooperative") submitted an application ("Application") to the Arizona Corporation Commission ("Commission") for authorization to amend its CC&N and to:

- Sell GCEC electric assets to the City of Safford ("Safford") in an area ("Service Area") delineated in the Territorial Settlement Agreement ("TSA") accompanying the Application. The map of the Service Area is attached herewith as Exhibit PB-1. The GCEC's Transmission Map is attached as Exhibit PB-2.
- Relinquish to Safford the right, obligation and responsibility to provide electric service to the customers in the Service Area as defined in the TSA accompanying the Application as Exhibit 1.

**Utility Overview**

GCEC is a non-profit, electric distribution cooperative, which supplies service to approximately 6,200 members in Graham County, Arizona. Safford is a municipal corporation in the State of Arizona, which operates and maintains an electric distribution system within its corporate boundaries to serve its load. GCEC also operates and maintains the distribution system to serve its load within the Safford Area (See red distribution lines in Exhibit PB-1). GCEC and Safford have an Agreement by which Safford can acquire (upon payment and other conditions) certain electric facilities of GCEC and thereafter provide electric service to customers in its corporate boundaries.

## **Background**

In 1946, Graham, Safford and the town of Thatcher ("Thatcher") jointly purchased the electric system from Arizona General Utilities Company. Safford and Thatcher acquired the facilities within their respective city limits and Graham acquired the rest of the facilities in Graham County. In an agreement known as the "46 Agreement," both municipalities could acquire the facilities and service territory from GCEC upon annexation for replacement cost less depreciation.

The TSA was entered into to settle litigation and to preserve GCEC's wheeling revenue from Safford. With the completion of the new 69 kV transmission line from the Hackberry Substation to the Thatcher Plant by Southwest Transmission Cooperative, Inc. ("SWTC"), Safford would be able to build a new substation in its service territory tapping into this 69 kV transmission, if it chose to do so. That would result in GCEC losing wheeling revenue from Safford. One of the motivations for GCEC to enter into the TSA was to preserve its revenue stream from Safford.

## **Staff's Review of the Electric Facilities**

On July 14, 2009, Prem Bahl, Commission Utilities Division Staff ("Staff") toured the Service Area, accompanied by Dennis Kouts, Operations Specialist, and observed the Wal-Mart facility to be transferred to Safford, and the airport facility that would be transferred to GCEC in exchange of the Wal-Mart transfer. Both transfers are scheduled to take place on January 1, 2013. Staff also observed the distribution facilities that would be transferred to Safford on January 1, 2016<sup>1</sup>. A list of the current customers that would be transferred to Safford showing their respective locations, classes and meter numbers is attached to the Application as Exhibit 3. The inventory of facilities relative to these customers will be assessed at that time, and determined prior to the transfer of the remaining facilities on January 1, 2016. According to the TSA, the formula for the cost of facilities to be transferred to Safford in 2016 will be replacement cost new less depreciation, with a minimum price of \$950,000 and a maximum price of \$1,250,000. According to the Cooperative, it is in Graham's best interest to finalize this agreement to preserve the wheeling revenue from Safford and to save on expensive litigation fees.

## **Conclusions and Recommendations**

The Cooperative and the City have spent decades dealing with the difficulties and vagaries created by the 1946 Agreement. GCEC has incurred a great deal of time and legal expense in litigation and other disputes with Safford regarding its application and enforcement. For more than two years, the Cooperative, its Board and other representatives have expended considerable effort negotiating the TSA as a comprehensive solution to these longstanding

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<sup>1</sup> In accordance with the terms of the TSA, the distribution system, shown in red on Exhibit PB-1, and the customers being presently served by Graham will continue to be served by the Cooperative until December 31, 2015. These customers and the said distribution system facilities will be transferred to Safford on January 1, 2016.



disputes. Both utilities, Safford and GCEC agree that the TSA will best serve not only the short- and long-term interests of the Cooperative and its members, but the best interests of all residents of Safford and Graham County.

Based on a field inspection of Graham's electric facilities relative to the transfer of Wal-Mart connection in 2013 and a general review of the distribution system in the Safford Area for transfer in 2016, including discussion with the GCEC Financial Manager Russ Barney, and with Dennis Kouts, Operational Specialist, Staff concludes that the transfer of assets in the Service Area to Safford is reasonable under the terms of the Application and is in the public interest. Staff does not believe that a detrimental impact to service reliability will occur as a result of the transfer. That is because the Cooperative will reconfigure the system by disconnecting its feed into the current load center and let Safford connect the affected customers to its present distribution system.

Therefore, based on Staff's aforementioned engineering review and inspection of the electric facilities to be transferred by GCEC to Safford, Staff recommends that the Cooperative's Application to amend its CC&N and transfer certain facilities to Safford per the TSA be approved.

**GALLAGHER & KENNEDY**

P.A.  
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**HAND DELIVERED**

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Phoenix, AZ 85007

AZ CORP COMM  
Director Utilities

Re: *Affidavit of Publication and Affidavit of Mailing in Relation to Graham County Electric Cooperative, Inc.'s ("GCEC") Application to Amend Its Certificate of Convenience and Necessity and Transfer Certain Assets to the City of Safford; Docket No. E-01749A-09-0185*

Dear Sir or Madam:

Enclosed are (1) the original and 13 copies of the Affidavit of Publication confirming published notice in this matter in the *Eastern Arizona Courier*, a newspaper of general circulation in Safford, Arizona and (2) the original and 13 copies of GCEC's Affidavit of Mailing of the notice in compliance with the requirements of the August 31, 2009 procedural order.

Your assistance in relation to this matter is appreciated.

Very truly yours,

GALLAGHER &amp; KENNEDY, P.A.



By:

Michael M. Grant

MMG/plp  
10430-13/2243161  
Enclosures

cc (w/enclosures): Maureen Scott, Legal Division (delivered)  
Alexander Igwe, Utilities Division (delivered)

Original and 13 copies filed with Docket  
Control this 2<sup>nd</sup> day of October, 2009.

AFFIDAVIT/PROOF OF PUBLICATION

**EASTERN ARIZONA COURIER**

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Phone: (928)428-2560/Fax:(928)428-5396

E Mail: mwatson@eacourier.com

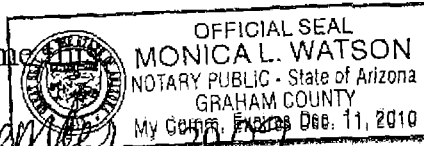
I, Doris A. Glenn, being duly sworn deposes and says; that she is the legal clerk of the EASTERN ARIZONA COURIER, a newspaper published in the City of Safford, Graham County, Arizona; that the legal described as follows:

Notice of Application by  
Graham County Electric  
Docket No. E-0149A-09-0185

a copy of which is hereunto attached, was first published in said newspaper in its issue dated September 23,  
20 09 and was published in each 1 issue(s) of said newspaper for 1 consecutive weeks/ issues, the last publication being in the issue dated September 23,  
20 09.

Signed: Doris A. Glenn

Subscribed and sworn to before me on



29 day of September, 2009

Monica L. Watson  
Notary Public

My Commission expires: December 11, 2010

**NOTICE OF APPLICATION BY GRAHAM COUNTY ELECTRIC  
COOPERATIVE, INC. FOR PERMISSION TO TRANSFER CERTAIN  
ASSETS TO THE CITY OF SAFFORD AND TO AMEND  
ITS CERTIFICATE OF CONVENIENCE AND NECESSITY  
DOCKET NO. E-01749A-09-0185**

On April 17, 2009, Graham County Electric Cooperative, Inc. ("GCEC") filed an application with the Arizona Corporation Commission ("Commission") to transfer certain assets to the City of Safford and to amend its Certificate of Convenience and Necessity. The Application is available for inspection during regular business hours at the offices of the Commission in Tucson at 400 West Congress Street, Suite 218, Tucson, Arizona, in Phoenix at 1200 West Washington Street, Phoenix, Arizona or on the Commission's website, [www.azcc.gov](http://www.azcc.gov), by using the eDocket link, as well as at the offices of GCEC, 9 West Center, Pima, Arizona.

The Application concerns an agreement reached between GCEC and the City of Safford which involves the transfer of certain electric service territory and the right to supply electricity to that area from GCEC to the City. A mailing of notice will be made to persons currently receiving service from the Cooperative in this area. In general, what the agreement provides is that the City of Safford will supply electricity to any new customers wanting to establish service in this area. However, if you currently receive electric service in this area from the Cooperative, you will continue to be GCEC's customer until January 1, 2016.

The Commission will hold a hearing on this matter on **November 17, 2009, at 10:00 a.m.**, or as soon thereafter as is practical, at the Commission's Tucson offices, **Room 222, 400 West Congress Street, Tucson, Arizona 85701.**

You may have the right to intervene in the proceedings and participate as a party. Intervention will be in accordance with A.A.C. R14-3-105, except that all motions to intervene must be filed by **October 23, 2009**. Persons desiring to intervene must file a written motion with the Commission and send such motion to the Applicant or its counsel. The motion must, at a minimum, contain the name, address and telephone number of the proposed intervenor, a short statement of the proposed intervenor's interest in the proceeding and a statement certifying that a copy of the motion to intervene has been mailed to the Applicant or its counsel and to all parties of record in the case.

If you have questions about this application, you may contact the Applicant at (928) 485-2451. Comments may also be made by writing to the Commission in care of Docket Control, 1200 West Washington Street, Phoenix, Arizona 85007. All correspondence should contain the Docket No. E-01749A-09-0185. If you want further information on intervention or have questions on how to file comments, you may contact the Consumer Service Section of the Commission at 400 West Congress Street, Suite 218, Tucson, Arizona 85701 (1-800-535-0148), or 1200 West Washington Street, Phoenix, Arizona 85007 (1-800-222-7000).

The Commission does not discriminate on the basis of disability in admission to its public meetings. Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail [SBernal@azcc.gov](mailto:SBernal@azcc.gov). Requests should be made as early as possible to allow time to arrange the accommodation.

GRAHAM COUNTY ELECTRIC COOPERATIVE, INC.  
GRAHAM COUNTY UTILITIES, INC.  
9 West Center Street, P.O. Drawer B  
Pima, Arizona 85543

Serving The Beautiful Gila Valley  
In Southeastern Arizona

Telephone (928) 485-2451  
Fax (928) 485-9491

AFFIDAVIT OF MAILING

I, Than W. Ashby, an employee of the Graham County Electric Cooperative, Inc. ("GCEC"), certify that on September 22, 2009 I caused to be deposited in the United States Mail, postage pre-paid, a copy of the attached Notice of Application addressed to (1) all GCEC members who are actively receiving service in the Safford Service Area as set forth in Exhibit 3 to the Application and (2) 20 property owners who hold 40 larger, undeveloped land parcels within the Safford Service Area.

Further your affiant sayeth not.

Than W. Ashby  
(Signature of person superintending mailing)

State of Arizona

County of Graham

On this 22 day of September, 2009 before me personally appeared THAN W. ASHBY  
(Date) (Month) (Year) (Printed Name of Employee)

known (or satisfactorily proven) to me to be the person who executed the Affidavit of Mailing and acknowledged to me that he/she executed the same.

Susan Romney  
(Signature of Notary Public)

Stamp/Seal as required



**NOTICE OF APPLICATION BY  
GRAHAM COUNTY ELECTRIC COOPERATIVE, INC.  
TO TRANSFER CERTAIN ASSETS TO THE CITY OF SAFFORD  
AND AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY  
DOCKET NO. E-01749A-09-0185**

Graham Electric Cooperative, Inc. ("GCEC"), your electric service provider, and the City of Safford have entered into an agreement which involves the transfer of certain electric service territory—including the area where you currently receive or may receive electric service—and the right to supply electricity to that area from the Cooperative to the City. A map outlining the boundaries of that area is attached.

In general, what this means is that the City will supply electricity to any new customers wanting to establish service in this area. However, if you currently receive electric service from the Cooperative, you will continue to be GCEC's customer until January 1, 2016.

On April 17, 2009, GCEC filed an application with the Arizona Corporation Commission ("Commission") to amend its Certificate of Convenience and Necessity to reflect this change in service territory. The Commission's docket number for this Application is E-01749A-09-0185. If you have questions about the Application, please contact the Cooperative at (928) 485-2451 and ask for Dennis Kouts or Steve Lines. The application is also available for review at the Cooperative's offices at 9 West Center, Pima, Arizona and at the offices of the Commission in Tucson at 400 West Congress Street, Suite 218, Tucson and in Phoenix at 1200 West Washington Street and on the Commission's website, [www.azcc.gov](http://www.azcc.gov), by using the eDocket function.

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